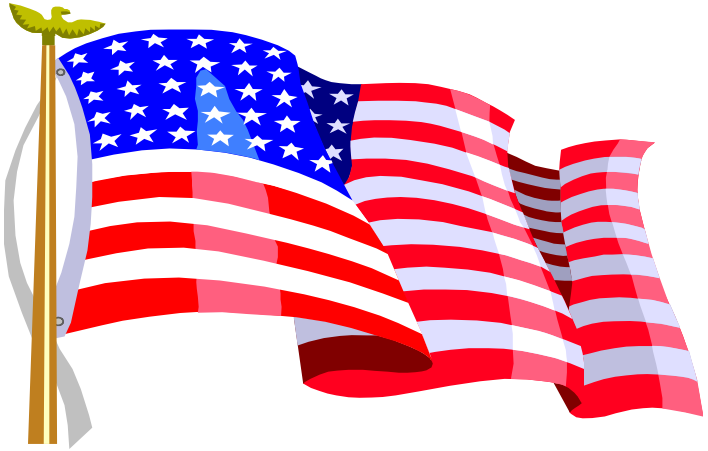

Reporting Options

Learning Objectives

- Explain the rationale for providing victims with reporting options
- Describe the difference between restricted and unrestricted reporting and the benefits and limitations of each
- Explain the exceptions to restricted reporting and applicability
- Explain independent investigation
- Explain the requirements of proper documentation

Purpose of Victim's Reporting Options

- Ensure victims receive medical, counseling and advocacy services
- Remove barriers
  - Perceived lack of privacy/confidentiality
  - Embarrassment/stigma
  - Fear of reprisal from offender
  - Lack of confidence in chain of command
  - Fear of repercussions regarding collateral misconduct
  - Concern about how report will affect their career, unit, and the mission
- Build victim's trust in system to increase reporting

Previous Reporting Policy

- No confidentiality
- Chaplains privilege
  - All others must report the assault
- Medical treatment initiated an investigation
- Law Enforcement notified immediately
- Victim had no control over the release or management of their personal information

Unrestricted Reporting

- DA Policy favors unrestricted reporting
- Command and investigative services notified
  - Accountability
- Allows the victim to receive:
  - Medical treatment
  - Sexual Assault Forensic Examination (SAFE)
  - Advocacy services
  - Counseling assistance
  - Legal services

Benefits of Unrestricted Reporting

- Ensures the widest range of rights and protections to the victim
- Commander Support (Military Protective Orders, separation from offender, deferred collateral misconduct, etc.)
- Full investigation enhances opportunity to hold offender(s) accountable (crime scene, witness interviews, suspect interrogation)
- May encourage other victims to come forward
- Enhanced community safety

Limitations of Unrestricted Reporting

- Cannot change to Restricted Reporting
- Victim may consider it too intrusive
- Others will find out
- Investigation and court proceedings might be lengthy
- May not be enough evidence to convict the offender(s)

Restricted Reporting

- Allows a service member who is sexually assaulted to disclose the incident to specifically identified personnel:
  - SARC
  - Victim Advocate(s)
  - Healthcare Provider(s)
  - *Chaplains
- DOES NOT TRIGGER THE INVESTIGATIVE PROCESS
- Allows the victim to receive:
  - Medical Treatment
  - SAFE
  - Advocacy Services
  - Counseling Assistance
- The Senior Commander is notified within 24 hours of non-identifying personal information

Sexual Assault Forensic Examination (SAFE) Under Restricted Reporting

- Optional
- Capability may be limited by state or local reporting requirements
  - MOUs
- Storage requirements
  - Alpha-numeric Restricted Report Case Number (RRCN)
  - Chain of custody
  - 1 year from report of assault
- Destruction Requirements
  - 30 days prior notification to SARC

Benefits of Restricted Reporting

- Victim receives appropriate medical treatment, advocacy, and counseling
- Provides victim some time to consider options and to begin the healing process
- Empowers victim to seek relevant information and support to make more informed decisions about participating in the criminal investigation
- Victim controls the release and management of his/her personal information

Benefits of Restricted Reporting

- Victim decides whether and when to move forward with initiating an investigation
- Non-identifying personal information gives Senior Commander a more accurate picture of number of sexual assaults occurring
  - Non-identifying victim and offender information:
    - gender
    - grade
    - component
    - status
    - location
    - type of assault

Limitations of Restricted Reporting

- Victim's assailant remains unpunished and at large
- Victim cannot receive a military protective order (MPO)/No Contact Order
- Victim may continue to have contact with the assailant
- Evidence from the crime scene may be lost
- Victim unable to discuss the assault with other service members

Exceptions to Confidentiality and Restricted Reporting and Limitations on Use

- A victim consents in writing
- Disclosure is necessary to prevent or lessen a serious and imminent threat to the victim or another
- When required to determine fitness for duty or disability retirement
- To supervise direct victim services adequately
- Ordered by judge or required by federal or state statue

Exceptions to Confidentiality and Restricted Reporting and Limitations on Use

- The SARC will determine whether an exception applies
  - If needed, may consult with SJA
- **Exceptions do not necessarily equal wholesale disclosure, only information necessary to satisfy the respective exception should be disclosed**

Independent Investigations

- Investigations of Restricted Reporting cases may occur if:
  - Commander receives information from a source independent of the restricted reporting avenues
  - Victim discloses circumstances of the sexual assault to someone other than the VA, SARC, Chaplain, or HCP (the protective sphere)
- The SARC, VA and healthcare provider will not disclose covered communications unless the victim authorizes the disclosure in writing or another exception applies.
  - Disclosure will be limited to that necessary to satisfy the purpose of the disclosure. Further disclosure will not be made unless the victim authorizes the disclosure in writing.

Improper Disclosure of Covered Communications

- Improper disclosure of covered communications or medical information, and other provisions of the confidentiality policy is prohibited
- Violations may result in:
  - Discipline under UCMJ
  - Other adverse personnel or administrative action

Victim Reporting Preference Statement

- Victim Reporting Preference Statement (VRPS)
  - Explains reporting options to victim
  - Explains limitations of restricted reporting
  - Memorializes victim's reporting decision
  - Signed and dated by victim
  - The VA must provide the SARC with copies of the Victim Reporting Preference Statement
  - Victim is provided a copy
- Victim refusal to sign

Victim Reporting Preference Statement

VICTIM REPORTING PREFERENCE STATEMENT	
1. Reporting process and options discussed with the VA or SARC:	
INITIALS	
	I, _____, had the opportunity to talk with a Victim Advocate (VA) or a Sexual Assault Response Coordinator (SARC) before selecting a reporting option.
The following applies to Unrestricted Reporting - reporting a crime which is investigated:	
	I understand that law enforcement and my command will be notified that I am a victim of sexual assault and it will be investigated. I understand I can receive medical treatment, advocacy services, support and counseling, and an optional sexual assault forensic examination to collect evidence if needed. The full range of victim protection actions may be available to me, such as being separated from the offender, receiving a military protective order against the offender, or convalescent leave. Collateral misconduct will be punished, but may be delayed until after the sexual assault is resolved.
The following applies to Restricted Reporting - confidentially reporting a crime which is not investigated:	
	a. I understand that I can confidentially receive medical treatment, advocacy services, support and counseling, and an optional sexual assault forensic exam to collect evidence if needed, but law enforcement and my command will NOT be notified. My report will NOT trigger an investigation and the offender will NOT be held accountable.
	b. I understand that there are exceptions to "Restricted Reporting" which may result in revealing some of the details of my assault, but those details will be limited to that information needed to satisfy the requirements of the exception.
	c. I understand that if I have not made an "Unrestricted Report" within 1 year of any evidence collected, it will be destroyed and no longer available for any future investigation or prosecution efforts.
	d. I understand that State laws, local laws, or international agreements may limit some or all of DoD's restricted reporting protections. In_____, medical authorities must report the sexual assault to _____ if the forensic examination is performed off an installation/ship.
	e. I understand that the SARC will provide information that does not reveal my identity nor that of the offender, to the responsible command within 24 hours of my "Restricted Report". This information is required for the purposes of public safety and command responsibility.
	f. I understand that by choosing "Restricted Reporting", the full range of victim protection actions may not be available, such as being separated from the offender, receiving a military protective order against the offender, or convalescent leave.
	g. I understand that if I talk about my sexual assault to anyone other than the SARC, sexual assault victim advocate, healthcare providers, or chaplains under the "Restricted Reporting" option, it may be reported to law enforcement and they may conduct an investigation. Any collateral misconduct disclosed from outside this confidentiality group, may be punished.
	h. I understand that I may change my mind and report this offense at a later time as an "Unrestricted Report", and law enforcement and my command will be notified. Delayed reporting may harm an investigation and the chance to effectively prosecute the offender, and if the case goes to court, my victim advocate and others providing care may be called to testify.
	i. I understand that if I am unable to choose a reporting option at this time, it will result in an unrestricted report being filed and my commander and invesigators will be notified.

Victim Reporting Preference Statement (cont.)

2. Choose a reporting option:		
	Unrestricted Report: At this time I elect unrestricted reporting and have decided to report that I am a victim of sexual assault to my command, law enforcement, or other military authorities for investigation of this crime.	
	Restricted Report: At this time I elect restricted reporting and have decided to confidentially report that I am a victim of sexual assault. My command will not be provided with information to reveal my identity. Law enforcement or other military authorities will not be notified. I understand that by not making an "Unrestricted Report", the information I provide will not trigger an investigation or be used to punish an offender. ***Restricted Report Case Number:***	
3. a. Signature of Victim		b. Date (YYYYMMDD)
c. Signature of SARC/Victim Advocate		d. Date (YYYYMMDD)
4. I have reconsidered my previous selection of "Restricted Reporting", and I would like to make an "Unrestricted Report" of my sexual assault to authorities for a possible investigation.		
a. Signature of Victim		b. Date (YYYYMMDD)
c. Signature of SARC/Victim Advocate		d. Date (YYYYMMDD)

PRIVACY ACT STATEMENT

AUTHORITY: Section 301 of Title 5 U.S.C. and Chapter 55 of Title 10 U.S.C.

PRINCIPAL PURPOSE(S): Information on this form will be used to document elements of the sexual assault response and/or reporting process and comply with the procedures set up to effectively manage the sexual assault prevention and response program.

ROUTINE USE(S): None.

DISCLOSURE: Completion of this form is voluntary; however, failure to complete this form with the information requested impedes the effective management of care and support required by the procedures of the sexual assault prevention and response program.

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Victim Reporting Preference Statement (cont.)

Exceptions to confidentiality
In cases in which members elect restricted reporting, disclosure of covered communications is authorized to the following persons or entities when disclosure would be for the following reasons:
1. Command officials or law enforcement when authorized by the victim in writing.
2. Command officials or law enforcement to prevent or lessen a serious and imminent threat to the health or safety of the victim or another person.
3. Disability Retirement Boards and officials when required for fitness for duty for disability retirement determinations. Disclosure is limited to only that information necessary to process the disability retirement determination.
4. SARC, victim advocates or healthcare provider when required for the direct supervision of victim services.
5. Military or civilian courts when ordered or required by federal or state statute. SARC, victim advocates and healthcare providers will consult with the servicing legal office to determine if the criteria apply and they have a duty to obey, similar to other recipients of privileged information . Until those determinations are made, non-identifying information should only be disclosed.
Guidelines on limitations for the above exceptions:
a. The SARC will evaluate the information provided and determine whether an exception applies. If needed, using non-identifying personal information, the SARC shall do so in consultation with the staff judge advocate of the senior commander. When there is uncertainty or disagreement on whether an exception applies, the matter shall be brought to the attention of the senior commander for decision.
b. The SARC, VA and healthcare provider will not disclose covered communications unless an exception applies, even though information about the sexual assault is disclosed to command from outside the restricted reporting avenues or to law enforcement from other sources, and an investigation into an allegation of sexual assault is initiated.
c. When an exception applies, the disclosure information is limited to what is necessary to satisfy the purpose exception. Further disclosure will not be made unless the victim authorizes the disclosure in writing.
d. If a SARC, VA or healthcare provider makes an unauthorized disclosure of a covered communication, they will not disclose additional covered communications unless the victim authorizes the disclosure in writing or another exception applies. As noted below, the unauthorized disclosure of a covered communication may result in disciplinary action.
e. If a victim makes a restricted report allegation of sexual assault, any other offenses revealed by the victim are considered covered communications and will not be disclosed unless the victim authorizes the disclosure in writing.
f. Because non-identifying personal information under the restricted reporting option is intended to provide the senior commander with general environmental information about the number and types of sexual assaults on the installation, and is to be used to provide a better understanding of incidents of sexual assault, neither the senior commander nor law enforcement officials may initiate investigations based on information provided by SARCs. The senior commander may use the information to enhance preventive measures and education and training of their personnel, and to closely scrutinize their organization's climate and culture for contributing factors, but may not use the information for investigative purposes or to determine the identities of the victim or offender.